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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JERRY BRENISER and GALE THURBER,

Case No. 07-CV-1418-HU

Plaintiffs,

CONCISE STATEMENT OF FACTS

v.

WESTERN RECREATIONAL VEHICLES, INC.,
a foreign corporation,

Defendant.

Plaintiffs submit the following concise statement of facts in support of their motion for summary judgment:

1. On or about August 26, 2005, plaintiffs purchased a 2006 Alpenlite Portofino Fifth Wheel from Highway Trailer Sales in Salem, Oregon. The Alpenlite was manufactured by Western Recreational Vehicles, Inc. At the time of the sale, a representative of Highway Trailer

Sales advised plaintiffs that the Alpenlite was covered by WRV's full warranty, and that any and all repairs needed could be brought to Highway Trailer Sales for service under the WRV warranty. Declaration of Jerry Breniser (hereinafter referred to as "Breniser Decl."), ¶ 2.

2. After the purchase, plaintiffs began discovering numerous defects and damage to the Alpenlite. These defects included a leaking roof and slider seals; a leaking refrigerator; faulty shower, moulding, and vents; defective microwave, furnace, and electronics; damaged or defective slider; delamination at trailer-side fifth wheel support; and defective wheels. In addition, as a result of one or more of said defects, the vehicle at issue in this case has sustained water damage, mold, and damage to wiring and circuitry. The defects are continuing, and plaintiffs continue to experience leaking and mold growth in the Alpenlite. Breniser Decl., ¶ 3.

3. Initially, plaintiffs returned to Highway Trailer Sales for service under the WRV warranty. Highway Trailer Sales was unable to repair or remedy all of the defects, so plaintiffs contacted WRV. WRV required plaintiffs to deliver the Alpenlite to the WRV factory in Yakima, Washington. WRV was unable and unwilling to repair or remedy all of the defects and damage. Attached as Exhibit 1 to the declaration of Jerry Breniser is a true copy of the warranty history for the Alpenlite, as well as correspondence between plaintiffs, Highway Trailer Sales, and WRV. Breniser Decl., ¶ 4.

4. In 2007, by and through their attorney, plaintiffs again requested that WRV repurchase the Alpenlite and refund plaintiffs' out pocket losses. WRV refused to repair or remedy the defects, or to rescind the sale. Breniser Decl., ¶ 5.

5. As a result of WRV's failure to honor the warranty on the Alpenlite, plaintiffs have suffered damages totaling \$88,623.68, which are itemized in the Declaration of Jerry Breniser. Breniser Decl., ¶ 6.

6. Attached hereto as Exhibit 1 to the declaration of Justin M. Baxter is a true copy of the December 2006 Asset Purchase Agreement between Western Recreational Vehicles, Inc., a Washington corporation and Western Recreational Vehicles, Inc., a Delaware corporation. Declaration of Justin M. Baxter (hereinafter "Baxter Decl."), ¶2.

7. In 2007, plaintiffs' counsel corresponded with attorney Valerie Von Bourg regarding plaintiffs' warranty claims relating to the Alpenlite at issue in this case. Counsel for the parties briefly discussed the possibility of repairs to the Alpenlite, but as that was not what plaintiffs wanted at that point, plaintiffs' counsel requested that WRV repurchase the Alpenlite and refund plaintiffs' out of pocket expenses. Counsel for the parties also discussed the possibility of a replacement vehicle, but a satisfactory replacement could not be agreed upon. The parties attempted to negotiate a rescission and restitution, but were unsuccessful. WRV ultimately refused to remedy the defects and damage, or to comply with the warranty on the Alpenlite. Baxter Decl., ¶ 3.

DATED this 23rd day of September, 2008.

/s/ Justin M. Baxter

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Attorneys for Plaintiffs Breniser and Thurber

CERTIFICATE OF SERVICE

I hereby certify that I served a true and complete copy of the foregoing CONCISE
STATEMENT OF FACTS on:

Philip Von Bourg
142 West 57th St., Suite 1700
New York, NY 10019

Corporate Representative for Defendant Western Recreational Vehicles, Inc.

☒ Via First Class Mail

☐ Via Facsimile

☐ Via Hand Delivery

☒ Electronic Delivery to pvonburg@mcpfunds.com

DATED this 23rd day of September, 2008.

/s/ Justin M. Baxter

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